

DISTRICT OF COLUMBIA
DOH Office of Adjudication and Hearings
825 North Capitol Street N.E., Suite 5100
Washington D.C. 20002

DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
Petitioner,

v.

ANNA CUNNINGHAM
Respondent

Case Nos.: I-00-40332
I-00-40333

ORDER

On January 17, 2002, this administrative court issued an order denying without prejudice Respondent's application to suspend the pending statutory penalties of \$2,000 assessed by this administrative court's order of October 19, 2001.¹ Respondent's application was denied because she did not offer any explanation of her delay in responding to the captioned Notices of Infraction and, as a result, this administrative court could not determine whether there existed good cause to suspend the penalties as it is required to do by law. *See* D.C. Official Code §§ 2-1801.03, 2-1802.03(f).

¹ On January 16, 2002, this administrative court received a Consent Agreement dated January 15, 2002 between the parties in which Respondent amended her plea in Case No. I-00-40332 from Deny to Admit and paid \$500, in exchange for the Government's dismissal of Case No. I-00-40333. This administrative court granted the Government's summary motion towards this end on January 16, 2002. As specified in the January 15, 2002 Consent Agreement, however, the Government takes no position on Respondent's application to suspend the \$2,000 in statutory penalties assessed by this administrative court's order of October 19, 2001 as a result of Respondent's failure to timely respond to the captioned Notices of Infraction.

On January 23, 2002, Respondent, through a person identified as “Jay Kennedy,” submitted a supplemental explanation for Respondent’s delay in responding to the Notices of Infraction. This submission is written in long-hand and is largely illegible. A copy of the January 23, 2002 submission is attached (Attachment 1). Moreover, Mr. Kennedy, who identifies himself on the submission as an “Attorney at Law” practicing at “3828 12th Street, NE, Washington, DC 20017” does not appear to be a member of the District of Columbia Bar. See attached letter of February 1, 2002 from the Membership Information Clerk of the District of Columbia Bar regarding the membership status of “Jay Kennedy” (Attachment 2).

Because Mr. Kennedy has represented himself to be a member of the District of Columbia Bar, and apparently is not a member,² he has failed to comply with the requirements of the Office of Adjudication and Hearings Office Order 2000-09 regarding the “Appearance of Attorneys Before the Office of Adjudication and Hearings” (June 2, 2000). A copy of OAH Office Order 2000-09 is attached (Attachment 3). As a result of this non-compliance, and in an exercise of this administrative court’s inherent authority to control the proceedings before it, Mr. Kennedy’s January 23, 2002 submission will be stricken from the record, his appearance will not be entered, and he will not be allowed to represent Respondent in these proceedings.³ See generally OAH Office Order 2000-09 at ¶ 4; D.C. App. R. 49; *Ramos v. District of Columbia Department of Consumer and Regulatory Affairs*, 601 A.2d 1069 (D.C. 1992); *Brown v. District of Columbia Board of Zoning Appeals*, 413 A.2d 1276 (D.C. 1980); *Ballard v. Carlson*, 882 F.2d

² Pursuant to D.C. App.R. 49(b)(2), Mr. Kennedy’s use of letterhead in the manner described may constitute the unauthorized practice of law. *In re Banks*, 561 A.2d 158, 164-65(D.C. 1981).

³ Because the January 15, 2002 Consent Agreement was executed by the Government and Respondent personally, in addition to Mr. Kennedy, this administrative court need not engage in a review of its validity at this time.

93 (4th Cir. 1989). Respondent will, however, have an opportunity to submit her explanation in a legible form through alternative counsel or, if she chooses, without representation.

Pursuant to OAH Office Order 2000-09 and the other noted above, Mr. Kennedy will be permitted an opportunity to respond to the aforementioned restriction on his practice before this administrative court in this matter.

It is, therefore, this ____ day of _____, 2002:

ORDERED, that Jay Kennedy's submission of January 23, 2002 on behalf of Respondent is hereby **STRICKEN** from the record. Respondent is permitted to submit a supplemental explanation in a legible form as to her failure to timely answer the captioned Notices of Infraction, and to renew her request to suspend the statutory penalties assessed by this administrative court's order of October 19, 2001, and/or to request a payment plan as set forth in this administrative court's Order of January 17, 2002, within ten (10) calendar days of the service date of this order. The filing of such a request will stay Respondent's obligation to pay the imposed statutory penalties pending its disposition; and it is further

ORDERED, that Jay Kennedy is not permitted to appear before this administrative court in this matter on behalf of Respondent in a representative capacity absent subsequent order by a presiding administrative judge of this administrative court removing this restriction; and it is further

ORDERED, that Jay Kennedy is permitted to file a response to this Order on his own behalf within ten (10) calendar days of this Order's service date; and it is further

ORDERED, that except as amended herein, the provisions of this administrative court's Order of January 17, 2002 remain in effect.

/s/ **2/5/02**

Mark D. Poindexter
Administrative Judge